

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SAM KHOLI ENTERPRISES, INC.	§	
Plaintiff	§	
	§	
v.	§	
	§	
TOM R. THOMPSON	§	Civil Action No. W-08-CA-105
DBA	§	
THOMPSON TRUCKING,	§	
Defendant,	§	
	§	
v.	§	
	§	
SAM KHOLI,	§	
Third-Party Defendant.	§	

**TOM R. THOMPSON'S REPLY TO THE RESPONSE OF
SAM KHOLI ENTERPRISES, INC. AND SAM KHOLI
RELATING TO THE MOTION FOR SANCTIONS,
INCLUDING CONTEMPT [DOCUMENT 113]**

TO THE HONORABLE WALTER S. SMITH, JR., UNITED STATES DISTRICT JUDGE:

Defendant/Third-Party Plaintiff Tom R. Thompson d/b/a Thompson Trucking, ("Thompson") files this reply to the response of Sam Kholi Enterprises, Inc., and Sam Kholi relating to Thompson's Motion for Sanctions, Including Contempt [Document No. 113].

1. Thompson and his counsel regret that these unseemly discovery matters must be brought to this Court for resolution. However, there seems no other recourse as Sam Kholi Enterprises, Inc. and Sam Kholi continue to evade discovery and act to delay Thompson in the collection of his judgment. Since the original motion for sanctions [Document 113] was filed, Mr. Kholi has, additionally, failed to appear for a post-judgment deposition, despite sufficient notice and deposition notices to both Mr. Kholi individually and as a representative of Sam Kholi

Enterprises, Inc. An outline of the events regarding the deposition issue is set forth in the attached affidavit of the undersigned counsel. In short, Mr. Kholi did not come to the deposition because of an asserted malady that supposedly does not allow him to fly, though he may be able to drive.

2. In his response to Document 113, Mr. Kholi continues his favored course of action of claiming health problems that prevent him from responding to discovery or even following this Court's orders. Respectfully, Thompson directs attention to Mr. Kholi's First Motion for Continuance before the trial [Document 45], his Supplemental Motion [Document 48], and his Plaintiff's Second Supplement to Motion for Continuance [Document 50]. Thompson responded to Document 50. In his response to Document 50 [Document 51], Thompson relates his experience with Mr. Kholi and his asserted health problems and how Mr. Kholi uses these assertions to advance his cause in litigation. Mr. Thompson's affidavit attached to Document 51 is incorporated into this reply for all purposes. Mr. Kholi's continuing and recent claims of ill health fit into his traditional pattern of litigation conduct.

3. Thompson and his counsel did travel to California for what they understood to be an agreed date and time to conduct settlement talks with Mr. Kholi. The talks were to take place at Mr. Kholi's counsel's office. The talks were to begin at 10:00 a.m., but Mr. Kholi did not attend the meeting until the afternoon, although his "General Counsel," Carmen McCormick, and his counsel herein, Mr. Lawton, did keep the morning appointment. To be fair, Mr. Lawton did contact Thompson's counsel the day before, indicating that Mr. Kholi would be late and might not show at all. Since Thompson and his counsel were about to board the plane for California, they chose to continue the trip. When he did show up the next afternoon, Mr. Kholi provided little, if any, accurate or candid information.

4. Mr. Kholi's current counsel, Mr. Lawton, began corresponding in late February of this year. The date of retention of Mr. Kholi's "General Counsel," Ms. McCormick, is unknown, but presumably after the trial of this matter last year. The status of Mr. Kholi's California counsel before and during the trial, Mr. Jon Lacey, is unknown.

5. Thompson's post-judgment written discovery was originally served on December 1, 2009. This Court granted Thompson's Motion to Compel related to this discovery on February 22, 2010. No answers or documents have been forthcoming. Mr. Kholi has not turned over anything and simply refuses to comply with this Court's February 22, 2010, Order [Document 110].

6. Mr. Kholi has now filed a F.R.C.P. Rule 60 motion. Thompson will respond to that motion, but in the meantime, he requests that the pendency of that Rule 60 motion not delay the implementation of existing orders of this Court.

PRAYER

Mr. Thompson prays that his Motion for Sanctions, Including Contempt [Document 113] be granted in all respects.

Respectfully submitted,

/s/ Jack R. Crews
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ATTORNEYS FOR TOM R. THOMPSON DBA
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing *Tom R. Thompson's Reply to the Response of Sam Kholi Enterprises, Inc. and Sam Kholi to the Motion for Sanctions, Including Contempt [Document 113]* was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorney(s) of record, in accordance with the Federal Rules of Civil Procedure 5(b)(2)(D), on this the 7th day of June, 2010, addressed to:

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/s/ Jack R. Crews
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